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2
3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
5 AT SEATTLE

6 NOAH FORD,

7 Plaintiff,

8 v.

9 I.Q. DATA INTERNATIONAL, INC.,

10 Defendant.

11 C22-1791 TSZ

12 MINUTE ORDER

13 The following Minute Order is made by direction of the Court, the Honorable
14 Thomas S. Zilly, United States District Judge:

15 (1) Defendant's motion to exclude the expert testimony of Thomas Tarter,
16 docket no. 145, is GRANTED in part and DENIED in part as follows:

17 (a) Expert opinion testimony is admissible if (1) the witness is qualified
18 to testify as an expert, (2) the expert's specialized knowledge "will help the trier of
19 fact to understand the evidence or to determine a fact in issue," (3) "the testimony
20 is based on sufficient facts or data," (4) "the testimony is the product of reliable
21 principles and methods," and (5) "the expert has reliably applied the principles and
22 methods to the facts of the case." Fed. R. Evid. 702. Rule 702 "assign[s] to the
23 trial judge the task of ensuring that an expert's testimony both rests on a reliable
24 foundation and is relevant to the task at hand." *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579, 597 (1993). The party seeking to admit expert testimony bears
25 the burden to establish by a preponderance of the evidence that the testimony is
26 admissible. *Id.* at 592 n.10; *Lust ex rel. Lust v. Merrell Dow Pharms., Inc.*, 89
27 F.3d 594, 598 (9th Cir. 1996). Expert testimony "is reliable if the knowledge
28 underlying it has reliable basis in the knowledge and experiences of the relevant
29 discipline." *City of Pomona v. SQM N. Am. Corp.*, 750 F.3d 1036, 1044 (9th Cir.
30 2014) (quoting *Primiano v. Cook*, 598 F.3d 558, 565 (9th Cir. 2010)).

31 (b) Defendant's motion is GRANTED as to Tarter's testimony
32 regarding the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692–1692p, the
33 Fair Credit Reporting Act, 15 U.S.C. §§ 1681–1681x, and the Washington

1 Consumer Protection Act, RCW Chapter 19.86. Tarter is not qualified to testify
2 about the legal standards of, alleged violations of, or defenses to, these statutes.
3

4 (c) Defendant's motion is also GRANTED regarding Tarter's testimony
5 of actual damages sustained by Ford. In his expert report, Tarter admitted he had
6 could not provide an estimate of Ford's economic credit damages, the value of
7 Ford's lost sleep, or the value of time and energy Ford spent to correct his credit,
8 because Tarter had not reviewed any supporting documentation. Tarter
9 Preliminary Expert Report at pp. 37-38, Ex. 1 to Tarter Decl. (docket no. 67). In
10 his deposition, Tarter conceded he had not reviewed any discovery at the time of
11 his report concerning Defendant's policies on providing information to credit
12 reporting agencies or how Defendant investigates disputed debts and claims of
13 inaccurate reporting. Tarter Dep. at 12:2-12:18, Ex. 1 to Def.'s Documents
14 (docket no. 160-1). In his offer of proof, Ford stated that, at trial, Tarter will not
15 quantify or assign a dollar value to Ford's credit stigma, chilling, credit
16 availability, credit expectancy, employment, or impact of a lower credit score.
Offer of Proof (docket no. 168 at 10). The Court will also exclude any testimony
from Tarter regarding topics not set forth in either his expert report or deposition
testimony.

17 (d) Defendant's motion is DENIED as to any testimony from Tarter
18 mentioned in his report or deposition not previously excluded. Tarter has
19 significant experience working in the financial and credit reporting industry, such
as involvement in debt collection practices and seeking loan approvals involving
personal lines of credit. *See* Tarter Preliminary Expert Report at pp. 3, 7, 52-54,
Ex. 1 to Tarter Decl. (docket no. 67). This experience provides him with a reliable
basis from which he may opine on these topics. *See City of Pomona*, 750 F.3d at
1044. The Court will address at trial any individual relevancy objections to
Tarter's testimony.

20 (2) The Clerk is directed to send a copy of this Minute Order to all counsel of
record.

21 Dated this 5th day of September, 2024.

22 Ravi Subramanian _____
23 Clerk

s/Laurie Cuaresma _____
Deputy Clerk